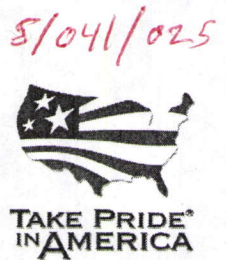




United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
RICHFIELD FIELD OFFICE  
150 East 900 North  
Richfield, Utah 84701



In Reply Refer To:

3809  
(U-050)  
UTU-71573

September 28, 2006

CERTIFIED MAIL 7005 0390 0004 9906 3573  
RETURN RECEIPT REQUESTED

**DECISION**

Mr. Tony Aguiar  
Diversified Stone Products, Inc.  
P. O. Box 265  
Fillmore, Utah 84631

: Notice: UTU-71573  
:  
:  
:

**NONCOMPLIANCE ORDER**  
**ENFORCING RECLAMATION OF DISTURBED PUBLIC LAND**

Your initial Notice, UTU-71573, was filed with this office on November 16, 1994, for mining activity at T. 26 S., R. 4 W., section 23, SLM, in Sevier County, Utah. A request to extend this notice was received in this office on January 17, 2003, in accordance with the regulations that were effective on January 20, 2001; however, the request did not include a reclamation cost estimate in accordance with the federal regulations at 43 CFR 3809.300, 333, 503, and 552.

A decision was mailed to you on November 7, 2003, that required you to post an acceptable financial guarantee in the amount of \$24,900.00. In the decision, you were informed that your notice would expire if you did not submit an acceptable financial guarantee within 60 days of your receipt of the decision. You received the decision on November 9, 2003, and the 60-day period expired on January 9, 2004 without a financial guarantee being posted with BLM. Therefore, the notice expired.

A second decision was mailed to you on June 21, 2004, that required you to reclaim the surface disturbance related to your mining activity. You received the decision on June 24, 2004. Since the date of your receipt of the June 2004 decision, the project has been inspected on the following dates: November 17, 2004, May 17, 2006, and August 8, 2006. Based on those inspections, reclamation has not been completed at the subject site.

Based on the inspections and the records in the BLM case file, you are in violation of the following regulations:

- 3809.335—When a notice expires, you must (1) cease operations, except reclamation, and (2) complete the reclamation promptly according to your notice. Your obligation to reclaim continues beyond the expiration of the notice until you satisfy them.

**RECEIVED**

**OCT 03 2006**

**DIV. OF OIL, GAS & MINING**

- 3809.300(d)—You may not conduct operations under an expired notice. You must promptly submit a new notice or a plan of operations or immediately begin to reclaim your project area.
- 3809.420(b)(3)—At the earliest feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization.

Under the authority of 3809.601(a), this decision constitutes a noncompliance order, and under 3809.601(c), you are ordered to reclaim all land disturbed by your mining operations by completing the following:

- The quarry pit must be re-contoured to the natural topography to the extent feasible.
- Rock material that was cast down the slope as part of stockpiles and/or waste rock dumps, immediately adjacent to the quarry pit, must be removed from the slope and re-contoured as part of the pit reclamation. Removal of this material shall be completed in a manner that does not or minimally disturbs the underlying soil, over which the stockpiled or waste materials were cast. This removal includes larger boulders that rolled down the slope as scatter.
- The short access road into the quarry shall be re-contoured to eliminate this route.
- Re-contoured areas shall be left in a roughened condition to promote the infiltration of precipitation, to create favorable seed germination, and to avoid rilling due to surface water runoff. Contours, created by heavy equipment, shall be parallel to the slope not down the slope.
- Stockpiled topsoil shall be uniformly re-distributed over the re-contoured areas to the extent feasible.
- Re-contoured areas shall be seeded with following seed mix at the recommended rate and method of application:

<u>Plant</u>	<u>Seed Application Rate</u> <u>(Pounds pure live seed per acre)</u>
Hycrest Crested Wheatgrass	4
Yellow Sweetclover	2
Luna Pubescent Wheatgrass	4
Ephraim Crested Wheatgrass	<u>2</u>

**TOTAL**

**12 lbs pure live seed per acre**

Seed should be applied when the soil is loose and not compacted. If the soil is compacted or not loose at the time of seeding, the soil should be broken and loosened by dragging a harrow or other implement. After seeding, the seeded area should be dragged with a harrow or other implement that will cover the seed to a depth of about ¼ to ½ inch. In small areas, where equipment cannot be dragged, use a heavy hand rake to loosen the soil and to cover the seed.

Seeding is recommended for late fall, usually after November 1, prior to first snowfall.

Seed should be certified pure live seed and should not include primary or secondary noxious weeds. The seed container or bag should be tagged in accordance with State law and should be available for BLM inspection.



You must notify this office before you start reclamation and again upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you in writing of the results of the inspection and close your notice if appropriate.

You must start reclamation within 60 days of the receipt of this decision, and you must complete the reclamation within 90 days of the receipt.

If you do not comply with this order, the Department of the Interior may request the United States Attorney to institute a civil action in United States District Court for an injunction or order to enforce this order to prevent you from conducting operations on the public lands in violation of this subpart, and collect damages resulting from unlawful acts as allowed at 3809.604. Additionally, if you fail to adhere to the terms of this order, you may face arrest and trial under section 303(a) of the Federal Land Policy Management Act (43 U.S.C. 1733(a)). If convicted, you will be subject to a fine of not more than \$100,000 or the alternate fine provided for in the applicable provisions of 18 U.S.C. 3571, or imprisonment not to exceed 12 months, or both, for each offense (see §3809.700).

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

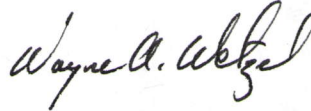
If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Richfield Field Office, 150 East 900 North, Richfield, UT 84701) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.



Wayne A. Wetzel  
Associate Field Manager

Enclosure: Form 1842-1

cc: Steven L. and Patricia K. Sorenson, 235 North Main Street, Kanosh, Utah 84637

Lynn Kunzler, Division of Oil, Gas, and Mining, State of Utah, Box 145801, Salt Lake City, Utah  
84114-5801 (S/041/027)